

Practitioner's Docket No. P-1262

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Patent application

of \_\_\_\_\_  
Inventor(s)

for \_\_\_\_\_  
Title of invention

**OR**

In re application of: **Metzemacher, et al.**

Application No.: **0 10/541,496**

Group Art Unit:

Filed: **July 6, 2005**

Examiner:

For: **COMPOSITION BASED ON PRE-EXFOLIATED  
NANOCCLAY AND USE THEREOF**

Mail Stop Amendment

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

**TRANSMITTAL OF INFORMATION DISCLOSURE STATEMENT  
WITHIN THREE MONTHS OF FILING OR  
BEFORE MAILING OF FIRST OFFICE ACTION (37 C.F.R. § 1.97(b))**

**CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10\***

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**37 C.F.R. § 1.8(a)**

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Date: August 11, 2005

Janice Coffman  
Signature

**Janice Coffman**

(type or print name of person certifying)

\* Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

(Transmittal of Information Disclosure Statement Within Three Months of Filing or Before Mailing of First Office Action [6-3]—page 1 of 3)

ALL REFERENCES CONSIDERED EXCEPT WHERE LINED THROUGH. /D.R./

NOTE: 37 C.F.R. 1.8(b):

- (1) Each U.S. patent listed in an information disclosure statement must be identified by inventor, patent number, and issue date.
- (2) Each U.S. patent application publication listed in an information disclosure statement shall be identified by applicant, patent application publication number, and publication date.
- (3) Each U.S. application listed in an information disclosure statement must be identified by the inventor, application number, and filing date.
- (4) Each foreign patent or published foreign patent application listed in an information disclosure statement must be identified by the country or patent office which issued the patent or published the application, an appropriate document number, and the publication date indicated on the patent or published application.
- (5) Each publication listed in an information disclosure statement must be identified by publisher, author (if any), title, relevant pages of the publication, date, and place of publication.

**WARNING:** No extension of time can be had under 37 C.F.R. § 1.136 (a) or (b) for filing an IDS. 37 C.F.R. § 1.97(f).

**NOTE:** The "filing date of a national application" under 37 C.F.R. § 1.97(b) has two possible meanings. Where the filing is a direct one to the United States Patent & Trademark Office, the filing is defined in 37 C.F.R. § 1.53(b) as "the date on which: (1) A specification containing a description pursuant to § 1.71 and at least one claim pursuant to § 1.75; and (2) any drawing required by § 1.81(a), are filed in the Patent and Trademark Office in the name of the actual inventor or inventors as required by § 1.41." 37 C.F.R. § 1.97(b)(1). On the other hand, an international application that enters the national stage occurs when the applicant has filed the documents and fees required by 35 U.S.C. § 371(c) within the periods set forth in § 1.494 or § 1.495. 35 U.S.C. § 371(c) requires the filing of the following: (1) the basic national fee; (2) a copy of the international application, unless already sent by the International Bureau, and optionally an English translation if filed in another language; and, also optionally (3) amendments under PCT Article 19, with a translation into English if made in another language; (4) an oath or declaration; and (5) a translation into English of any annexes to the international preliminary examination report, if such annexes were made in another language. The optional items must be submitted later, with surcharges. 37 C.F.R. § 1.97(b)(2).

### **IDENTIFICATION OF TIME OF FILING THE ACCOMPANYING INFORMATION DISCLOSURE STATEMENT**

The information disclosure statement submitted herewith is being filed within three months of the filing date of the application or date of entry into the national stage of an international application or before the mailing date of a first Office action on the merits, whichever event occurs last. 37 C.F.R. § 1.97(b).

**NOTE:** "No certification or fee is due when the filing is made within the above time period. It is advisable to ensure that no Office action has been mailed if the disclosure statement is delayed until after three months from filing."

**NOTE:** "An information disclosure statement will be considered to have been filed on the day it was received in the Office, or on an earlier date of a mailing if accompanied by a properly executed certificate of mailing under 37 C.F.R. 1.8, or Express Mail certificate under 37 C.F.R. 1.10. An Office action is mailed on the date indicated in the Office action." Notice of April 20, 1992 (1138 O.G. 37-41, 39). See also § 609, M.P.E.P., 8th Edition.

**NOTE:** "The term 'national application' includes continuing applications (continuations, divisions, continuations-in-part) so three-months will be measured from the actual filing date of an application as opposed [sic] to the effective date of a continuing application." Notice of April 20, 1992 (1138 O.G. 37-41, 39).

(Transmittal of Information Disclosure Statement Within Three Months of Filing or Before Mailing of First Office  
Action [6-3]—page 2 of 3)

**NOTE:** "An action on the merits means an action which treats the patentability of the claims in an application, as opposed to only formal or procedural requirements. An action on the merits would, for example, contain a rejection or indication of allowability of a claim or claims rather than just a restriction requirements (37 C.F.R. 1.142) or just a requirement for additional fees to have a claim considered (37 C.F.R. 1.16(d)). Thus, if an application was filed on Jan. 1 and the first Office action on the merits was not mailed until six months later on July 1, the examiner would be required to consider any proper information disclosure statement filed prior to July 1." Notice of April 20, 1992 (1138 O.G. 37-41, 39).

**WARNING:** "A petition for suspension of action to allow applicant time to submit an information disclosure statement will be denied as failing to present good and sufficient reasons, since 37 C.F.R. § 1.97 provides adequate recourse for the timely submission of prior art for consideration by the examiner." Notice of July 6, 1992 (1141 O.G. 63). But see § 103(b) and (c), limited suspension of action in a continued prosecution application (CPA) filed under § 1.53(d) and in a request for continued examination (RCE) under § 1.114.

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SIGNATURE OF PRACTITIONER

Scott R. Cox

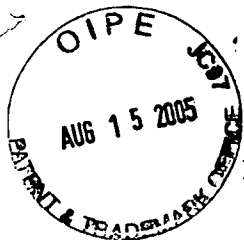
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500 W. Jefferson St., Suite 2100

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Louisville, KY 40202

(Transmittal of Information Disclosure Statement Within Three Months of Filing or Before Mailing of First Office Action [6-3]—page 3 of 3)



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: :  
Metzemacher, et al. : Art Unit:  
Serial No.: 10/541,496 :  
Filing Date: July 6, 2005 : Examiner:  
Attorney Docket No.: P-1262 :  
For: COMPOSITION BASED ON :  
PRE-EXFOLIATED NANOCCLAY :  
AND USE THEREOF :

MAIL STOP AMENDMENT  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

INFORMATION DISCLOSURE STATEMENT

While the information and references disclosed in this Information Disclosure Statement may be "material" pursuant to 37 CFR \$1.56, it is not intended to constitute an admission that any patent, publication or other information referred to therein is "prior art" for this invention unless specifically designated as such. In accordance with 37 CFR \$1.97(b), the filing of this Information Disclosure Statement shall not be construed to mean that a search has been made or that no other material information as defined in 37 CFR \$1.56(a) exists. This information is submitted in compliance with 37 CFR \$1.98.

U.S. References:

4,410,364  
4,412,018 (Equivalent of DE 31 45 452)  
4,434,075 (Equivalent of DE 31 45 452)  
4,434,076  
4,391,637  
5,747,560 (Equivalent of WO 93/04118)  
6,380,295  
6,610,770 (Equivalent of EP 1 090 954)  
6,750,282

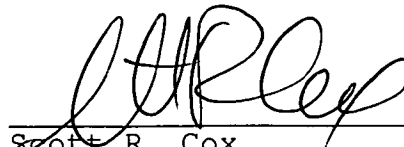
Application Serial No. 10/541,625 filed on July 6, 2005

ALL REFERENCES CONSIDERED EXCEPT WHERE LINED THROUGH. /D.R./

  
Foreign References:

DE 199 21 472 (Abstract)

Respectfully submitted,



\_\_\_\_\_  
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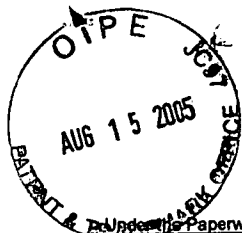
CERTIFICATE OF SERVICE

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Date: August 14, 2005



:JC  
Attachments  
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PTO/SB/08A (08-03)

Approved for use through 07/31/2006. OMB 0651-0031  
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**INFORMATION DISCLOSURE  
STATEMENT BY APPLICANT**

(Use as many sheets as necessary)

**Complete if Known**

Application Number	10/541,496
Filing Date	July 6, 2005
First Named Inventor	Metzemacher
Art Unit	
Examiner Name	
Attorney Docket Number	P-1262

Sheet

1

of

1

**U. S. PATENT DOCUMENTS**

Examiner Initials*	Cite No. <sup>1</sup>	Document Number	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number-Kind Code <sup>2</sup> (if known)			
/D.R./		US- 4,410,364	10-18-1983	Finlayson	
/D.R./		US- 4,412,018	10-25-1983	Finlayson	
		US- 4,434,075	02-28-1984	Mardis	
		US- 4,434,076	02-28-1984	Mardis	
		US- 4,391,637	07-05-1983	Mardis	
		US- 5,747,560	05-05-1998	Christiani	
		US- 6,380,295	04-30-2002	Ross	
		US- 6,610,770	08-26-2003	Ross	
/D.R./		US- 6,750,282	06-15-2004	Schall	
		US-			
/D.R./		US- S/N 10/541,625			
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**FOREIGN PATENT DOCUMENTS**

Examiner Initials*	Cite No. <sup>1</sup>	Foreign Patent Document	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages Or Relevant Figures Appear	T <sup>6</sup>
		Country Code <sup>3</sup> Number <sup>4</sup> Kind Code <sup>5</sup> (if known)				
/D.R./		DE 19921472 ABSTRACT	11-16-2000	Kabelwerk		

Examiner  
Signature

/Daniel Robinson/

Date  
Considered

07/07/2008

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. <sup>1</sup> Applicant's unique citation designation number (optional). <sup>2</sup> See Kinds Codes of USPTO Patent Documents at [www.uspto.gov](http://www.uspto.gov) or MPEP 901.04. <sup>3</sup> Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). <sup>4</sup> For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. <sup>5</sup> Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. <sup>6</sup> Applicant is to place a check mark here if English language Translation is attached.

This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-788-9199) and select option 2.

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